FOR MYSORE STATE

H.E.L.A. (195 5) Department.

Ms. SERIES.

G.O. No. 385, Education.

Dated 14-3-1955.

[Despatch Abstract.]

Examination-S.S.L.C.-W.P.Nos.592 and 593 of 1954 630 and 631 1954 and 733 of 1954-Copies of Judgment-Papers recorded.

SPECIAL

Department | Received | Registered

From (Name) V.V.Raghavan,

Designation Special Govt.Pleader,

Station High Court, Madras.

To

The Asst. Secretary to Government,
Health, Edn. & Local Admn. Dept.
Fort St. George.

Enclosures:

No. 6017 dated 1-3-1955 195

Sir,

(1) Writ Petition.Nos. 592 and 593 of 1954-
High Court, Madras - Examinations - S.S.L.C-
K.Sundara Shetty and Soundara Pandian.
Your Memo.No.108278-E.V/54-1 dated 1-11-54 and
G.O.Ms.No.259, Law, dated 9-10-1954.

(2) Writ Petition Nos. 630 and 631 of 1954-
High Court, Madras - Examinations - S.S.L.C.
Sri V. Soundara Pandian.
Your Memo.No. 99080-E.V/54-1 Edn. dated 8-10-54 an
G.O.Ms.No. 270, Law, dated 18-10-1954.

(3) Writ Petition.No. 733 of 1954. High Court, Madras.
Declaration of eligibility for University
courses of study of Jothi Raj.
G.O.Ms.No. 34, Law, dated 11-2-1955.

I am enclosing carbon copies of the judgment in the above Writ Petitions. The question of filing appeals may be decided in consultation with the Registrar, University of Madras. The last date for filing appeals is 11-3-1955.

V V Raghavan

Encls: (Three) Special Government Pleader.

Copy to:

(1) The Secretary,
Board of Secondary Education,
College Road,
Nungambakkam,
M a d r a s- 6.

(2) The Deputy Secretary to Government,
Law Department,
Fort St. George.

N THE HIGH COURT OF JUDICATURE AT MADRAS.
(Special Original Jurisdiction.)

ne thousand nine hundred and fifty five.

PRESENT:-

The Honourable Mr.Justice Rajagopalan.

Writ Petition Nos. 592 and 593 of 1954

K.Sundara Shetty — Petitioner in both.

1. The Registrar, University of Madras, Madras.
2. The Secretary Board of Secondary Education, College Road, Nungambakkam, Madras.
3. The Principal, Government Arts College Mangalore.

Respondents in both.

W.P.No.592 of 1954.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed therewith the High Court will be pleased to issue a writ of certiorari calling for the records relating to the cancellation of the Secondary School Leaving Certificate of the Petitioner by the Second Respondent on 24-5-1954 and quash the same thus restoring the Petitioners Secondary School Leaving Certificate

W.P.No.593 of 1954.

Petition under Article 226 of the Constitutionof India praying that in the circumstances stated in the affidavit filed with W.P.No.592 of 1954 on the file of the High Court, the High Court will be pleased to issue a writ of Mandamus directing the 1st Respondent herein viz., the Registrar University of Madras, Madras to permit the Petitioner to continue his studies in the Second Year of the University Course.

These Petitions coming on for hearing on Tuesday the 8th day of February 1955 upon perusing the petitions and the affidavit filed in W.P.No.592 of 1954, the interim orders of the High Court dated 6-9-1954 and made herein the counter affidavits of Respondents 1 and 2 and 3 in W.P.No.592 of 1954

the Reply affidavit of the Petitioner in both filed herein and the records in the case and upon hearing the arguments of Mr.S.Mohankumaramangalam and Mr.K.V.Sankaran, Advocates for the Petitioner and of Mr.C.N.S.Chengalvarayan, Advocate for the 1st Respondent and of the Special Government Pleader on behalf of Respondents 2 and 3 in both the petitions and the Petitions having stood over for consideration till this day, the court made the following

ORDER:-

This case is analogous to the one I dealt with in W.Ps. 630 and 631 of 1954, in which I have just pronounced orders.

The petitioner appeared for the Secondary School Leaving Certificate, was issued to him on 18-5-1953. The printed endorsement that he was entitled to admission to a course of studies in a College was left in tact. It was explained in the counter affidavit, that the scheme of printing such certificates was brought into force, because the previous rule to emboss such certificates by rubber stamp had led to malpractices. It was further explained that, where there had been no declaration of eligibility as required by rule 1(a) of Chap XXXIV of the University Ordinance the Secretary of the Board of Secondary Education had to score out the printed certificate. On the basis of the certificate, the petitioner applied for and secured admission to the Junior Intermediate Class in the Government Arts College, Mangalore, in July 1953. After the annual examination in March-April 1954, the petitioner was promoted to the Senior Intermediate Class. The petitioner's name was not in the list published in the Fort St.George Gazette of candidates declared eligible under rule 1(a) of Chap. XXXIV. In May 1954, he was informed by the Lecturer in charge of the College that, since the petitioner's admission to the college had not been approved

x A completed Secondary School leaving certificate

of by the University, his promotion to the Senior Intermediate Class was held in abeyance. Eventually, on 2-7-54 he was informed by the College authorities that he would not be permitted to continue his studies in the Intermediate class; and his Secondary School certificate was returned with an endorsement of cancellation of the printed certificate. It is the correctness of these proceedings that the petitioner challenged in W.P.No.592 and 593 of 1954. In W.P. No.592 of 1954 he sought a writ of certiorari and in W.P. No.593 of 1954 he sought a writ of mandamus

As I have already stated earlier, the case is virtually analogous to that of the petitioner in W.P.No.630 of 1954, with this slight modification that in that case the cancellation of the certificate was even much later after the petitioner in that case had undergone about six months of further course of studies in the Senior Intermediate Class. But that really makes very little difference. What matters is whether or not the petitioner could satisfy the examiners and the University by the marks he obtained at the S.S.L.C. Public Examination that he had the capacity to undertake the next higher course of studies in a College but independent of that the petitioner's capacity was tested and accepted by the College by promoting him from the Junior Intermediate Class to the Senior Intermediate Class.

In this case also, though I hold that the University Jurisdiction to correct a mistake, the orders of the University, given effect to by the second respondent, correcting the mistake and cancelling the certificate granted originally to the petitioner should be set aside on the ground (1) that the orders were issued without notice to the petitioner and without giving him a reasonable opportunity to show cause against the action proposed to be taken by the University,

and (2) that in the circumstances of this exercise of the power to correct the mistake was unreasonable.

The rule issued in W.P.No.592 of 1954 will be made absolute, and the orders of the University and the Secretary, Board of Secondary Education cancelling the certificate will stand set aside, as also the order issued by the college authorities refusing to permit him to continue his studies.

It should be noted that the operation of the orders of the College authorities was suspended by an order of this Court dated 6-9-1954. The petitioner continued in the College. The learned counsel for the petitioner represented that, despite the order of the court dated 6-9-1954, the petitioner was not permitted to pay his fees for the Intermediate Examination to be held in March this year, apparently on the ground, that the certificate of eligibility had been cancelled. I trust that the University and the College will permit the petitioner to take the examination, provided of course he satisfies the other tests prescribed. He should not be refused permission to appear for the examination on the ~~sole~~ *Sole* basis, that the certificate of eligibility had been cancelled.

In view of what I have expressed above, no further orders are necessary on W.P.No.593 of 1954.

The rule in W.P.No.592 of 1954 is made absolute. The first respondent should pay the costs of the petitioner. Counsel's fee Rs.100/-.

MEMORANDUM OF COSTS

MEMORANDUM OF COSTS

Petitioners Cor+-

Stamp for Vakalatnama.	Rs	3	-	-
-do- used for the Memo.		20	-	-
-do- for enclosures.		2	-	-
Value of copy stamps used and printing charge for enclosures.			-	-
Batta and postage		5	1	-
Advocate's fee on rupees		100	0	-
Translation and printing charges		-	-	-
Costs incurred in the lower Appellate Court.		130	1	-

Do. in the court of First Instance.

To be paid to the Petr. by the 1st Respondent.

(sd) R.Narayanaswami Iyer.
Assistant Registrar(A.S)

(TRUE COPY)

S. Jagadeesayya
Sub Assistant Registrar(A.S)

25/5/55

To

1. The Registrar. University of Madras, Madras (with records if any) with unabsolute
2. The Secretary, Board of Secondary Education College Road, Nungambakkam, Madras (with records) and unabsolute
3. The Principal, Government Arts College, Mangalore (with records) and unabsolute
4. C.C. of Judgement and writ absolute to Mr.C.N.S. Chengalvarayan, (Advocate for the 1st Respondent on payment of usual charges.)
5. C.C. of T.R. writ absolute The Special Government Pleader (on behalf of Respondents 2 and 3 on payment of usual charges) (2 copies)
6. C.C. of Judgement and writ absolute to M/S. S.Nonankuaramangalam, S.Gopalakrishnan and K.V.Senkaran (onbehalf of Petitioner on payment of usual charges.)

ORDER.
W.P.Nos.892 and 893
of 1954.

Allowing with costs the petitions W.P.89/84 to issue a writ of Certiorari calling for the records and to quash the cancellation of the S.C.L.O. by the X 2nd Respondent on 24-5-1954 thus restoring the Petitioner's

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Special Original Jurisdiction
Monday, the Fourteenth day of February
One thousand nine hundred and fifty five.

Present:

The Honourable Mr. Justice Rajagopalan.

Writ Petition Nos. 630 and 631 of 1954.

Coundara Pandian .. Petitioner in both the petitions.

1. The Registrar, University of Madras
2. The Secretary, Board of Secondary Education, College Road, Nungambakkam, Madras
3. Principal, Thiagaraja College, Madhurai
4. The Government of Madras, represented by its Secretary Education Department, Madras.

Respondents in both.

W.P. No. 630 of 1954

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in th affidavit filed therewith, the High Court will be pleased to

(1) issue an appropriate writ of certiorari or other directions in the nature of a writ calling for the concerned records and quash the cancellation of the order relating to the Secondary School Leaving Certificate of the petitioner herein by the 2nd Respondent viz. The Secretary, Board of Secondary Education, College Road, Nungambakkam, Madras and

(2) to restore the petitioner's S.S.L.C. (Certificate)

W.P. No. 631 of 1954

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed with W.P. No. 630 of 1954 on the file of the High Court, the High Court will be pleased to issue a writ of Mandamus against the 3rd Respondent herein staying the operation of the order

removing the petitioner herein from the rolls of the college (vide letter dated 22-12-1953 by the Principal of the Thiagaraja College, Madhurai), pending the aforesaid W.P.No. 630 of 1954 on the file of the High Court.

Order: These petitions coming on for hearing on Tuesday the 8th day of February 1955, upon perusing the petitions and the affidavit filed in W.P.No. 630 of 1954 and the writ and Rule Nisi issued herein by order of the High Court dated 22-3-1954 and made herein and the counter affidavits and the Reply affidavit filed herein, and upon hearing the arguments of Mr. N.S. Nambiyar and Mr. V.Veeraswami Sundaram, Advocates for the petitioner in both the petitions and of Mr. C.V.C. Chengalvarayan Advocate for the 1st Respondent, and of the Special Government Pleader, on behalf of the 2nd and 4th Respondents and the 3rd Respondent not appearing in person or by Advocate and the cases having stood over for consideration till this day, the court made the following.

ORDER:

This is an application under article 226 of the Constitution afor the issue of a writ of certiorari or any appropriate writ. The second respondent is the Secretary of the Board of Secondary Education, which conducts examinations, on the basis of which completed Secondary School Leaving Certificates are issued to the candidates. The petitioner appeared for the examination held in March 1952. The completed Secondary School Leaving Certificate which was granted to him showed the marks he had obtained at that examination, authenticated by the facsimile signature of the

Secretary of the Board. It also bore a rubber stamp endorsement, that he had been declared eligible for a course of college study in the Madras, Andhra and Annamalai Universities. The petitioner obtained admission to the Junior Intermediate class in the Thyagaraja College, Madurai, in June 1952. The Principal of that College is the third respondent. In June 1953 the petitioner was promoted to the Senior Intermediate class. In the normal course, after completing the course of studies in the Senior Intermediate class, he would have been eligible to appear for the Intermediate examination held by the University, the first respondent, in March 1954. On 22-12-1953, the third respondent, the Principal of the College, sent a communication to the petitioner in the following terms:

> "In the list of O.S.L.C.Holders of March 1952 declared eligible for University Course of study published in the Fort St. George Gazette dated 24-9-1952, your name was not found and the matter was under correspondence with the Registrar, University of Madras. The Registrar has now sent me the orders of the Board of Secondary Education, Madras in the matter which says that you are not eligible for a course of study of the University of Madras.
>
> "Your name is, therefore, removed from the rolls of the College with immediate effect which please note."

The Secondary School Leaving Certificate of the petitioner which had apparently been in the custody of the Principal of the College ever since the admission of the petitioner to the College was returned to the petitioner, with the

certificate of eligibility for admission to college course scored out. Even that scoring out was not attested by any responsible official. That the certificate was cancelled by or under the orders of the Secretary to the Board of Secondary Education was never in dispute.

On 26-12-1953, the petitioner wrote to the second respondent:

> "I request that a certified copy of the Order of the Board of Educationm stating that I am not eligible for a course of study of the University of Madras, may kindly be granted to me emergently....."

The second respondent's reply to that dated 6-1-1954, was:

> "Sri V.Coundarapandian (the petitioner) is informed that he has not been declared eligible for the University courses of Study at the S.S.L.C. Public Examination held in March 1952 and that his name was not included in the list of eligible candidates published in the Fort St. George Gazette."

The petitioner addressed the Vice Chancellor of the University direct and also sought the intervention of the Government of Madras, who also addressed the Vice Chancellor of the University. The University declined to grant any relief. The petitioner was advised to appear again for the S.S.L.C. examination, with the prospect, that, if he secured a pass at that examination,

an application from him for exemption for undergoing in part the college course in the Intermediate class would be considered. It should be remembered that by December 1953, the petitioner had completed all but three months of that course.

Counter affidavits were filed by the Registrar of University and by the Secretary of the Board of Secondary Education.

The contention in the counter affidavits was that, under the rules in force issued by the University, which alone could declare a candidate, who held a completed Secondary School Leaving Certificate, eligible for admission to the University for a course of studies in a College, the petitioner was never declared so eligible, and that the certificate of eligibility embossed on the S.S.L.certificate issued to him, authenticated by the Secretary, was a mistake, and when that mistake was discovered, it was corrected.

The learned counsel challenged the validity of the orders of the University and the Secretary, Board of Secondary Education, respondents 1 and 2, which ultimately led to the cancellation of the certificate of eligibility on the following grounds: (1) the University had no jurisdiction to cancel a certificate of eligibility once issued; (2) even if the University had jurisdiction, its exercise of its powers was vitiated by the failure to give any notice of the intended cancellation to the petitioner, thereby flouting principles of natural justice; and (3) the decision of the University to cancel the certificate, carried out by the second respondent, constituted an unreasonable

exercise of power, even if the University had the power to cancel the certificate.

The learned Government Pleader urged that the second respondent, the Secretary, was under no legal obligation, statutory or otherwise, to grant to the petitioner a certificate, that he was eligible for admission to the Madras University to undergo a course of studies in a College. No doubt it is for the University to declare that a candidate is eligible for admission to the University. Nonetheless, as admitted by the second respondent,- and the correctness of that admission the first respondent never attempted to challenge--as a measure of convenience at least it was the Secretary that was authorised to issue the certificate of eligibility, under the rules in force in the relevant year, by embossing that certificate by a rubber stamp on the completed Secondary School Leaving Certificate. In paragraph 9 of the counter affid-vit of the Second respondent he averred:

> "So far as this work is concerned, the Secretary of the S.S.L.C. Board is merely an employee of the University.

It should, therefore, be clear that, whether or not the rules of the University provided for the issue of a certificate, independent of the declaration of eligibility the certificate issued by the second respondent to the petitioner was under an authority conferred on the second respondent by the University. No doubt, the contention was that it was by a mistake the certificate was issued to the petitioner, and that he was not qualified under the rules in force that year for a declaration of eligibility. The further contention

was that that mistake was not rectified by the cancellation of the certificate.

Rule 1(a) of Chap. XXXIV of the Ordinance of the University of Madras provided:

> "Holders of completed Secondary School Leaving Certificates may be admitted to University courses of study if they
>
> (b) shall have secured at one Public Examination the marks prescribed below and been declared eligible for admission to University Courses of Study by the Syndicate.

Certain minima were prescribed under sub-head (I) of rule 1(a). It was common ground that the petitioner had not secured those minima. There was, however, a further provision in rule 1(a) which ran:

> "There shall be a Moderation Board appointed by the Syndicate to consider hard cases.

The declaration of eligibility thus depended either on the candidate securing the minimum number of marks prescribed under rule 1(a) (I), or on the Moderation Board accepting "hard cases" as fit for a declaration of eligibility.

In the counter affidavit filed by the second respondent he stated that the instructions issued by the Syndicate to the Moderation Board appointed under rule 1(a) of Chap. XXXIV of the University Ordinances varied from year to year, but they were confidential. Both the first and second respondents maintained that the Moderation Board did not accept the petitioner's as a

"hard case" to grant him a declaration of eligibility. But on what grounds the Moderation Board came to the conclusion that the petitioner's was not a hard case, neither the first respondent nor the second respondent explained. Apparently they considered that the xxx instructions issued to the Moderation Board in 1952 should be treated as so confidential that even the Court should not be taken into ~~xx~~ their confidence in 1955 when the validity of an order issued by the University and carried out by the second respondent was challenged before the Court. The position, no doubt, remains, that respondents 1 and 2 have categorically stated that the petitioner's was not one of the "hard cases" passed by the Moderation Board. The petitioner is not in a position to test the correctness of that statement. I am constrained to observe that the first and second respondents have placed the Court also in the same position. Nonetheless, I do not propose to rest my decision on this feature of the case.

A good deal of argument before me was on the question of what constituted the declaration of eligibility prescribed by rule 1 (a) of Chap. XXXIV of the Ordinances of the University. The learned Government Pleader contended that it was the publication in the Fort St. George Gazette that constituted the declaration. The petitioner certainly did not challenge the correctness of the claim, that his name was not included in the list published in the Fort S George Gazette dated 24-9-1952. I am, however, unable to accept the contention of the learned Government Pleader that publication in the Gazette constitutes, the declaration of eligibility prescribed by rule 1(a) of Chap. XXXIV.

As the rules of the University stood on the relevant

date in 1952, there was not even a requirement that the declaration of eligibility, in the case of holders of completed Secondary School Leaving Certificates, should be published in the Gazette. No doubt rule 2(c) in Chap. XXXIV of the Ordinances of the University prescribed publication in the Gazette. But that rule was obviously confined only to holders of European School Leaving ~~Leaving~~ Certificates. Rule 1 dealt with holders of Secondary School Leaving Certificates, and there was no provision anywhere in rule 1 for any publication in the Gazette. The position, in my opinion, is rendered clear when the provisions of rule 1 of Chap. XXXIV as published in the University Calendar for 1953-54 are examined. Specific provision was then made in rule 1(d) for the publication of a complete list of certificate holders, that is, holders of Secondary School Leaving Certificates declared eligible for admission to University courses of study in the Fort St. George Gazette. There was no such provision in the rules in force in 1952. Therefore ~~there~~ there seems to be no real basis for the contention put forward by the learned Government Pleader, that publication in the Gazette alone constituted the prescribed declaration of eligibility.

Even had there been a provision corresponding to rule 1(d) in the rules in force in 1952, I would have been of the opinion, that the declaration prescribed by rule 1(a) of Chap. XXXIV was antecedent to the publication in the Gazette, and that the publication in the Gazette furnished only evidence of the x declaration and did not by itself constitute the declaration. ~~of~~ Of course the certificate of eligibility endorsed in the S.S.L.Certificate did not by itself constitute such a declaration.

Gazette dated 24-9-1952 did not constitute the declaration of eligibility, the question still remains, whether apart from the rubber stamp certificate in the petitioner's completed Secondary School Leaving Certificate, did he secure a declaration of eligibility. I have already discussed the question, whether under the rules in force, that is, under the instructions issued to the Moderation Board in 1952, the petitioner could have been entitled to a declaration of eligibility. That the petitioner's name was not included even in the list of candidates declared eligible, referred to as the provisional list" in the counter affidavit of the second respondent, was the claim made both by the first and the second respondents. I shall proceed on the assumption that that claim is correct.

The plea of the learned counsel for the petitioner, that neither the first respondent nor the second respondent had any juricdiction to cancel to a certificate once granted, will have to be examined on this basis: (1) the University did not declare the petitioner eligible for admission to the University under rule 1(a) of Chap. XXXIV; (2) nonetheless, a certificate, that the petitioner had been declared eligible, was granted to the petitioner by the second respondent; (3) the second respondent was authorised by the University to issue such certificates on the basis of the declaration of eligibility under rule 1(a); (4) that in the case of the certificate granted to the petitioner it was issued by mistake; and (5) it was that mistake that was corrected.

I pointed out earlier that publication in the Gazette would at best be proof of the x declaration of

eligibility required by rule 1 (a) of Chap. XXXIV. I also pointed out that in 1952 no such publication in the Gazette was required by the rules. A certificate of the kind embossed on the petitioner's Secondary School Leaving Certificate would also be evidence of such a declaration. In fact, the counter affidavit of the second respondent made it clear, that it was to enable the candidates to secure admission to colleges without waiting for the publication in the Gazette that the scheme of embossing rubber stamp certificates in the S.S.L.C. books was in force in 1952. The petitioner, when he got the book, was certainly not in a position to know whether or not there had been any declaration by the University under rule 1(a) of Chap. XXXIV. But he was entitled to look upon the certificate issued to him as proof that there had been such a declaration in his case. It eventually turned out that there had in fact been no declaration, and the issue of the certificate to the petitioner was a mistake.

The question therefore is, had the first and second respondents any jurisdiction to correct a mistake that had been committed by the issue of a certificate of eligibility to the petitioner. ~~And~~ No doubt, there was nothing specific in the Ordinances of the University empowering the University to cancel the certificate of eligibility that had been granted even erroneously. But was then, it should be remembered that the Ordinances of the University themselves did not prescribe the issue of a certificate of eligibility. It only prescribed a declaration of eligibility. The absence of a specific provision for cancelling a certificate, which was not even prescribed, does not, in my opinion, really affect

the jurisdiction of the University to order cancellation of the certificate or that of the second respondent to carry out such orders. I hold that the University had jurisdiction to correct a mistake that had been committed in the issue of a certificate of eligibility to the petitioner.

The next question is, was the exercise of such jurisdiction vitiated in the case of the petitioner. petitioner had certainly no opportunity of making any representations to the Six University before the cancellation of the certificate, or even before he received the order of the Principal, that the petitioner should leave the College. Even on the further representations made by the petitioner, all that he was told was that a mistake had been committed in the issue of a certific On what basis the Moderation Board held that the petitioner's was not a 'hard case' the petitioner has not been informed even now. Whether the petitioner, if any notice had been given to him of h the action contemplated by the University, would have had a real opportunity to convince the University that the issue of the certificate of eligibility was not on any mistaken basis, but that the proposed cancellation of that certificate could really be a mistake, cannot be answered by me on the material placed before me. But that really does not touch the question, whether the University could have corrected a mistake that had been committed without notice to the party likely to be affected. It was virtually a revocation of a certificate granted by a competent authority. It as was not even as if the that certificate was valueless to anyone. On the basis of that certificate the petitioner applied for admission to the College, and the Principal of that College obviously accepted that certificate and admitted the petitioner.

Even if the petitioner was aware, or should be deemed to have been aware, of the minima prescribed by rule 1(a) of Chap. XXXIV of the University Ordinances, he could certainly act in good faith, that his was at least a "hard case" passed by the Moderation Board; and that is apparently what he did. The revocation of such a certificate, acted upon in good faith by the petitioner as well as by the Principal, without notice to the petitioner, and without giving him an opportunity of showing cause against the contemplated revocation, is, in my opinion, opposed to all principles of natural justice; and on that short ground alone the order of the University to cancel the certificate, given effect to by the second respondent, is liable to be set aside by the issue of a writ of certiorari. The petitioner was kept in the dark of the entire proceedings till he was virtually expelled from the College by the notice issued to him by the Principal in December 1953: And it should be remembered at no stage did any one question the good faith of the petitioner.

The learned counsel for the petitioner put forward yet another ground in support of his claim, that the cancellation of the certificate should be set aside. He contended that, even if respondents 1 and 2 had the power to cancel the certificate, the circumstances of this case made the exercise of that power unreasonable. In Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation (1) at page 234 are the observations of Lord Greene M.R.

> .....although the local authority have kept within the four corners of the matters which

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(1) 1948 (1) K.B. 223

"they ought to consider, they have nevertheless come to a conclusion so unreasonable that no reasonable authority could ever have come to it. In such a case, again, I think the court can interfere. The power of the court to interfere in each case is not as an appellate authority to override a decision of the local authority, but as a judicial authority which is concerned and concerned only, to see whether the local authority have contravened the law by acting in excess of the powers which the Parliament has confided in them.

Earlier Lord Greene M.R. pointed out that proof unreasonableness

"It clearly means that it must be proved to be unreasonable in the sense that the court considers it to be a decision that no reasonable body could have come to. It is not what the court considers unreasonable, a different thing altogether..... The effect of the legislation is not to set up as the court as an arbiter of the correctness of one view over another. It is the local authority that are set in that position, and provided they act.....within the four corners of their jurisdiction, this court, in my opinion, cannot interfere."

for that order and maintained its validity. I have already pointed out that there were at no specific rules to provide for a cancellation of a certificate of eligibility. There was nothing in the material placed before me to indicate whether the order to the second respondent, Secretary, Board of Secondary Education, was issued by the Registrar under any Standing Orders of the Syndicate or under the orders of that Syndicate treating the petitioner's as an individual case. Obviously the Moderation Board that functioned in 1952 was not the Body that was called upon to exercise any discretion before the cancellation of the certificate of eligibility was decided upon. Whether anyone was really called upon to exercise his de discretion and whether he did exercise his discretion before the order was issued to the second respondent to cancel the certificate of eligibility, there was really nothing to show. So, even if I come to the conclusion, that the order complained of was so unreasonable that no reasonably minded authority could have issued such an order, it would not be a case of attributing unreasonableness to the University as a whole or even to the Syndicate.

The petitioner could not and did know that the certificate issued to him, declaring him eligible for courses of studies in a college, was not what it purported to be, a certificate issued by a competent authority. He acted in good faith and secured admission to a college. He underwent a course of studies in the Junior Intermediate class and in due course secured his promotion to the Senior Intermediate Class. Whatever deficiency there might have been in the marks he obtained at the School Final Examination, obviously a promotion from the Junior Intermediate Class to the Senior

Intermediate Class should be accepted as proof of his fitness for the next stage in the course of studies higher than the School Final Class. But for the unfortunate discovery of the mistake, he could have reasonably expected that he would be permitted to take his Intermediate Examination in due course, provided, of course, he satisfied the other tests. Virtually two years of his young life, possibly more, would turn out to be a waste, if the cancellation of the certificate of eligibility were allowed to stand. Once again I must point out that his fitness for a course of studies higher than the School Final Class has been tested and approved by his promotion from the Junior to the Senior Intermediate Class. In such circumstances to call upon him to lose the benefit of his studies in the Intermediate Class, to lose the right to appear for the Intermediate Examination in due course would appear to be a result that no reasonably minded authority should even contemplate, much less achieve. The loss to the petitioner by the cancellation of the certificate of eligibility, that had been granted to him, cannot be measured in terms of money alone, though the financial expenditure the petitioner has incurred subsequent to his admission to the College should itself have been considerable. I quote the 1 dicta of Lord Greene M.R. "it is not as if the court is constituting itself an appellate authority over the University. I have already pointed out that there was nothing in the material placed before me to indicate whether anyone in authority was called upon to exercise his discretion to order a cancellation of the certificate. In my opinion, the cancellation of the

bound to treat that by itself as sufficient justification for setting aside the order of the University.

The learned counsel for the petitioner visualised the possibility of the University cancelling the declaration of eligibility for admission to the University course of studies after the candidate had completed the course and had even taken his degree. He contended that in such a case, the benefit to be achieved by the cancellation would really be non-existent, while the harm done would be immeasurable which would make the exercise of power really unreasonable. Of course, no yard stick could be devised even with reference to the time factor to say when an order would be unreasonable. I would much rather rest my finding, that the power X in this case was exercised unreasonably, on the basis, that the petitioner had secured his promotion to the next higher class. Suppose for instance a Head-master of a school suddenly discovered a "mistake" committed two or three years back in promoting a boy, say from the second form to the third form, and that mistake was actually discovered when the boy had been promoted from class to class and was in the ~~sixth~~ sixth form would the Head-master be justified in sending the boy back to the second form with an advice to pass the second form examination before he could come back into the sixth form. Here again it is not the time factor alone that I should take into account.

Universities , Madras, Annamalai, and Andhra. Since the directions of the Madras University, the whole of that certificate was cancelled by the second respondent, without any reference to either of the other Universities

This petition is allowed. The rule is made absolute. The cancellation of the certificate of eligibility ordered by the University and given effect to by the second respondent will stand set aside. The order of the third respondent, the Principal of the College, dated 22-12-1953, directing the removal of the petitioner's name from the rolls of the College is also set aside.

Even apart from the normal rule, the costs should abide the event. I think this is a fit case where the University, the first respondent, should be directed to pay costs to the petitioner. Counsel's fee, Rs.100/-.

W.P. No. 631 of 1954.

This petition was filed along with W.P.No.630/54 and the relief sought in W.P.No. 631 of 1954 was the issue of a writ of mandamus. In view of the orders passed in W.P. No. 630 of 1954, no further orders are necessary on this petition. There will be no order as to costs in W.P. No. 631 of 54.

(Sd.) P.Narayanaswami Ayyar,
Assistant Registrar, Appellate Side.

(True copy)

S. Jagadeesan 22-2-55

Sub Assistant Registrar, App. Side.

To

1. The Registrar, University of Madras (with records if any) and writ absolute

2. The Secretary, Board of Secondary Education, College Road, Nungambakkam, Madras (with records if any)and writ absolute.

3. The Principal, Thiagaraja College, Madhurai
(with records if any) and writ absolute

4. The Secretary to the Government of Madras, Education
Department, Fort St. George, Madras
(with records if any)

5. C.C. to Mr. C.N.S.Chengalvarayan, Advocate
(on payment of usual charges) with writ absolute

6. C.C. to Mr. N.K.Ambiyar, Advocate for the Petitioner
(on payment of usual charges) with writ absolute

7. C.C. to the Spl. Government Pleader (2 copies)
(on usual terms) with writ absolute.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Special Original Jurisdiction

Monday the Fourteenth day of February

One thousand nine hundred and fifty five.

Present:

The Honourable Mr. Justice Rajagopalan.

Writ Petition No. 733 of 1954.

P. Jothiraj, being minor represented by his father and guardian M.P.N.S.T. Nagarajan.	PETITIONER.
1. The Registrar, University of Madras. 2. The Principal, Virudhunagar Hindu Nadars' Senthukumara Nadar College, Virudhunagar Ramanathapuram District. 3. The Secretary, Board of Secondary Education, College Road,. Nungambakkam Madras-6.	RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or order for a direction directing the Respondents herein to forbear from enforcing the order of the 1st Respondent herein No.C.R.No.7035 dated 12--11+-1954 and the letter Ref.Toc.No. 1252 of 1954 dated 18--11--1954 of the 2nd Respondent herein.

ORDER: This Petition coming on for hearing on Tuesday the 8th day of February 1955 upon perusing the petition and the affidavit filed in support thereof and the Writ and Rule Nisi issued in and by order of the High Court dated 23--11--1954 and made herein and the counter affidavits filed herein and other papers material to the application and upon hearing the arguments of Mr. V.K. Nambiar and Mr. A. Thangavel, Advocates for the Petitioner and of Mr. C.N.S. Chengalvarayan Advocate for the 1st Respondent and of the Special Gove

and Respondent not appearing in person or by Advocate and the Petition having stood over for consideration till this day, the Court made the following:-

O R D E R.

This petition also was heard along with W.P.No.6000 of 1954, in which I have just pronounced orders.

The petitioner in this case, Jothiraj, appeared for S.S.L.C. examination in March 1954. The completed certificate, which contained a printed form of his eligibility for admission to the Madras and Annamalai Universities, was issued to him on 18-6-1954. The petitioner was admitted in July 1954 into the College at Virudhunagar.

The list of candidates, who held completed Secondary School Leaving Certificates and who were declared eligible for admission to the University, was published in the Fort St. George Gazette on 1--9--1954. That list did not contain the name of the petitioner. The Head-master immediately brought this to the notice of the Secretary, Board of Secondary Education, the third respondent. On 10--9--1954 itself the Secretary asked the Head-master to get back the certificate from the petitioner's father and send it to the Secretary. The Head-master wrote to the petitioner's father. But the petitioner's father could not send back the certificate. It was in the custody of the Principal. But even that information the petitioner's father was not prepared to disclose. Meanwhile, the Principal of the College had also noticed the omission of the petitioner's name in the Gazette and addressed the University. On 12--11--1954 the Registrar, of the

University asked the Principal to send the Secondary School Leaving Certificate of the petitioner to the University, as the petitioner had not been declared eligible for admission to a University course of studies. The Principal of the College informed the Petitioner's father on 18--11--1954 of this decision of the Registrar of the University and requested the Registrar further to withdraw the boy from the college immediately. It was the validity of these proceedings that the petiti challenged by the application under article 226 of the Constitution for the issue of a Writ of Certiorari.

As I said; this petition also was heard along with C.P.No.630 of 1954, in which similar questions arose for consideration. In the other case the certificate of eligibility, embodied in the completed Secondary School Leaving Certificate granted to the candidate, had been cancelled. In the present case the Principal of the College sent the completed Secondary School Leaving Certificate of the petitioner Jothiraj to the Registrar, specifically for the purpose of cancellation of the certificate of eligibility, and the certificate could appear to have been sent to the third respondent, Secretary to the Board of Secondary Education, for the cancellation. But formal cancellation does not appear to have been made yet. But that makes little difference to the determination of the real question at issue, was the University right in directing the cancellation of the certificate of eligibility?

The validity of the order was challenged in C.P.630 of 1954 on three grounds: (1) that the University

had no jurisdiction; (2) even if it had jurisdiction, the exercise of that jurisdiction which violated principles of natural justice was vitiated, and (3) the exercise of the power was unreasonable.

For the reasons given in my order in W.P.No.2337/54 dated [illegible] the University had jurisdiction to order cancellation of the certificate, if really the certificate had been issued without any declaration by the University that the petitioner was entitled to admission to the University.

Unlike as the cases dealt with in W.P.No.2030/54 and W.P.No.2338/54, the fact that the petitioner's name was not in the Gazette was discovered very soon after his admission to the College, -- he was admitted to the College in July and the publication in the Gazette was on 1st September, -- and the fact that the boy had not secured the requisite declaration, was brought to the notice of the boy's father within 10 days thereafter. No doubt it took a little longer before the University moved. The circumstances of this case, do not in my opinion, justify a finding, that at the stage at which the University took up the matter, the exercise of the power, the University had to correct a mistake that had been committed, would amount to an unreasonable exercise of that power.

The only other ground that remains is, that the order of the University is vitiated by the failure to give the petitioner a reasonable opportunity to show cause why the certificate that had been issued to him should not be cancelled. This aspect also I have dealt with in my order in W.P.No.630 of 1954. To recall the Hon'ble Master

informed the petitioner's father as early as 14-9-1954 that the boy was not eligible for admission to a college, and that the Secondary School Leaving Certificate issued to the boy should be sent back to the Secretary to the Board of Secondary Education for making the necessary corrections. But at no stage did any of the authorities, the Head-master of the Secretary to the Board of Secondary Education, or the Registrar give the petitioner a reasonable opportunity to show cause why the certificate that had been issued to him should not be cancelled. What defences would be open to the petitioner, I am not called upon to speculate. As I stated in W.P.No.630/54, on that short ground alone the order of the University is liable to be set aside.

Though this case does differ from the other two disposed of to-day, in that the mistake was discovered as early as it was possible under the circumstances, and the authorities took steps promptly enough to rectify that mistake, the order of cancellation itself has to be set aside, because it was done without notice to the petitioner. Had the order been passed by the University after giving notice to the petitioner, the position would have been entirely different and there would have been no occasion at all for any interference with such an order.

This petition is allowed. The rule is made absolute. The first respondent shall pay the costs of the petitioner. Counsel's fee Rs.100/-.

Sd/ R. Narayanaswami Iyer,
Assistant Registrar, Appellate Side.

(True Copy)

S. Jagadisayyar
Sub Assistant Registrar, App. Side.

To

1. The Registrar, University of Madras (with records)
(with writ absolute)

To

1. The Registrar, University of Madras(with records) and rit Absolute.
2. The Principal, Virudhunagar Hindu Nadars' ... Nadar College, Virudhunagar, Ramnathapuram District (with records and rit Absolute)
3. The Secretary, Board of Secondary Education College Road Purnambakkam, Madras-6. (with records)
4. The Secretary to Government, Education Department Madras (writ Absolute)
5. c.c. to Mr. C.N.S. Chengalvarayan, Advocate (with Writ Absolute on payment)
6. The Special Government Pleader (2 copies)

TYPED BY. M/S HARI KRISHNAN. Examined by.

Dated 14--8--1955.

ORDER:

W.P.No.733 of 1954.

Allowing with costs the Petition for issue of a Writ of Mandamus directing the Respondents herein to forbear from enforcing the order of the 1st Respondent herein No.7035 dated 12-11-1954 and the letter Ref.T.C.C. No.1252 of 1954 dated 18-11-1 of the 2nd Respondent herein.

Sub Exam in SLC WP Nos. 592 & 593/54
630 & 631/54 & 733/54

Ref further Spl Govt Pleader No 6017 dated 1.3.1955

Memo No 2024-C-E/55-2 Edn dated 30.5.55

The attention of the C&E is invited to the letter from the Spl Govt Pleader cited, a copy of which has been sent to his Secy to the C&E. The Comm is requested to report urgently whether there is a case for filing appeal in the above cases.

Submitted to the C&E.

23.5.55

2/6/55

CENTRAL DESPATCH BRANCH

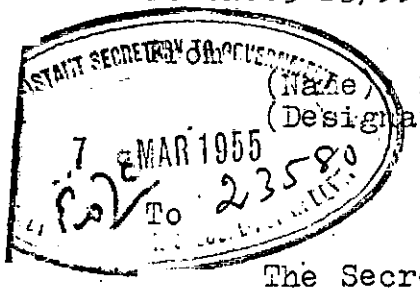
Despatched by ... P. t.

Despatcher's Initials.

Subject:

Examinations - S.S.L.C. - Writ Petitions No.592 and 593/54, 630 and 631/54 and 733/54.

R.C.No.9-B3/55. Station: Madras. Dated 7.3.1955.



(Name) : Sri N.D. Sundaravadivelu, M.A., L.T.,
(Designation): Commissioner for Government Examinations,
Madras.

The Secretary to Government,
Health, Education and Local Administration Department,
Fort St. George, Madras.9.

Sir,

Ref: Memorandum No.20245-E.5/55-2 Dt.3.3.1955.

With reference to the Government Memorandum cited, I have the honour to report that the University has already filed an appeal against the judgments in the writ petitions quoted above. The Special Government Pleader was consulted in this matter telephonically. He is of the opinion that Government need not file a separate appeal and it is enough if necessary informations to the University to conduct the case is furnished. Certain particulars were already asked for by the University and they have been supplied.

Under the above circumstances it appears not necessary that Government should file a separate appeal in this case.

for COMMISSIONER.

Sub:- Examinations - S.S.L.C. W.P.Nos. 592 & 593 of 1954,
630 & 631 of 1954 and 733 of 1954.

Re Spl. Govt. Pleader No. 6017 dated 1.3.1954

Please see the letter of the Spl. Govt Pleader Madras and the copies of the judgments in the W.Ps. filed by three Students in the High Court. The Govt Pleader states that the question of filing appeals in these cases may be considered in consultation with the Registrar, University of Madras. The Registrar ~~who~~ is one of the defendants in these cases & it is not known whether the University will take up the question of filing appeals in these cases. It does not seem necessary to consult the Registrar in the matter. The C.S.G. may perhaps be consulted. A draft memo is submitted Law may see before issue

~~H. Edn. (E) Dept~~

Issued in Memo No. 2026-E1/55-2 Edn. dated 3.3.55

Read :- From the C. f. E No. 9-83/55 dated 4.3.55

Please see the letter from the C. f. E on the subject.

In the circumstances reported therein, no further action seems called for.

The papers may be ~~lodged~~ recorded after perusal by Law

7/3/55
HG
9.30

B
10/3/55

Law Copy

~~Law Dept.~~

~~Seen in Law~~

CAV
10-3-55

~~H.Dos.~~

H.P.E.-1-80-ORG.
2026-E1/55-1
10.3.55

~~H E L A~~

HELA LEGJ

ASSISTANT SECRETARY
10 MAR 1955
3528
LAW DEPARTMENT, MADRAS

Law No 3528/55-1
11.3.55

74/14/3

The papers may now be ~~lodged~~ recorded

By order No 385 Edn dated 14.3.55

3
11/3/55
HG

B
12/3/55

ASSISTANT SECRETARY TO GOVERNMENT
HG
11 MAR 1955
24453
HEALTH, EDUCATION & LOCAL ADMN. DEPT.

~~For Govt. - Examination~~

~~S.L.P. W.P. Nos. 5~~

~~893~~ of 1954 ~~680 & 81~~
1954 and 733 of 1954 -
copies of judgment
& Papers Returned.